

## Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 AF-10 ARA-10 EA-10 EUR-12  
NEA-11 ACDA-12 AGRE-00 AID-05 CEA-01 CEQ-01 CG-00  
CIAE-00 COME-00 DODE-00 DOTE-00 EB-08 EPA-01  
SOE-02 DOE-15 FMC-01 TRSE-00 H-01 INR-10 INT-05  
JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-07 OMB-01  
PA-01 PM-05 SP-02 SS-15 ICA-11 OIC-02 /191 W  
-----060888 101556Z /43

R 101522Z MAY 78

FM USMISSION GENEVA

TO SECSTATE WASHDC 9454

C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 07144

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE - MAY 8 HIGHLIGHTS

BEGIN SUMMARY: NG-1 REVIEWED THE NJENGA PROPOSALS WHILE THE NG-2 EXPERTS . FOCUSED ON DEVELOPMENT AND OPERATING COSTS QUESTIONS. ARCHIPELAGOES WERE THE THEME IN COMMITTEE II. NG-6 "NEGOTIATIONS" HAVE SLOWED TO A TRICKLE. NG-5 COMPLETED A REDRAFT OF FISHERIES DISPUTES QUESTIONS. COMMITTEE II GROUPS DEBATED US AMENDMENTS TO THE POLLUTION TEXTS. END SUMMARY.

1. NG-1 CONSIDERED THE NJENGA RE-DRAFTS AND ARTICLES 150 AND 150 BIS. THE SMALL ENGO GROUP IN NG-3 CONTINUED TO MEET ON THE COMPOSITION OF THE COUNCIL AND VOTING. IN NG-1, THE US (ALDRICH) CHARACTERIZED ARTICLE 150 AS REPRESENTING CONSIDERABLE COMPROMISE BY ALL SIDES. YET THERE WERE DIFFICULTIES WITH THE REFERENCE TO "ADEQUATE" SUPPLIES IN SUBPARA D AS TOO SUBJECTIVE A STANDARD. THE US ALSO EXPRESSED THE HOPE THAT THERE COULD BE COMPROMISE ON ARTICLE 150 BIS; AND ENDORSED THE SOVIET PROPOSAL (ON  
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ARTICLE 150 BIS C) THAT ANY PRODUCTION LIMITATION ON MINERALS OTHER THAN NODULES WOULD HAVE TO BE DONE BY AMENDMENT TO THE CONVENTION.

2. NG-2 CHAIRMAN KOH REPORTED ON THE PROGRESS OF THE EXPERTS' GROUP ON FINANCIAL ARRANGEMENTS. THERE WERE NO COMMENTS ON THE INTERIM REPORT AND THE MEETING WAS ADJOURNED

SO THAT KOH COULD MEET AGAIN WITH THE EXPERTS. THESE SPECIALISTS HAVE BEEN TRYING TO REACH A CONSENSUS ON THE DEFINITIONS OF THE TECHNICAL TERMS "DEVELOPMENT COSTS" AND "OPERATING COSTS." PROGRESS IS BEING MADE ON THIS ISSUE AND

ON THE VIEW THAT 8-10 YEARS WOULD BE A REASONABLE PERIOD IN WHICH TO ALLOW DEPRECIATION. DIFFERENCES ARE BEING NARROWED ON THE MOST DIFFICULT QUESTION -- THE PERCENTAGE OF VALUE ADDED ATTRIBUTED TO MINING ACTIVITIES. THE US HAS PROPOSED 20 PERCENT AND JAMAICA HAS RESPONDED WITH A NEGOTIABLE FIGURE OF 50 PERCENT. THIS ISSUE WILL BE DISCUSSED FURTHER AT THE MAY 9 EXPERTS MEETING.

3. COMMITTEE II CONTINUED DISCUSSION OF "OTHER ISSUES." THE PHILIPPINES (SUPPORTED BY PERU BUT OPPOSED BY THE USSR AND EASTERN EUROPEANS) SUBMITTED AMENDMENTS WHICH WOULD HAVE THE PRACTICAL EFFECT OF OVERTURNING THE EXISTING ICNT REGIME OF NAVIGATION THROUGH ARCHIPELAGIC WATERS. INDONESIA SOUGHT CERTAIN TECHNICAL CHANGES WHICH, BY OMISSION, WERE NOT INCORPORATED INTO THE ICNT, BUT WERE PART OF THE PREVIOUSLY NEGOTIATED PACKAGE (WITH THE US AND USSR) ON ARCHIPELAGIC STATES. THE SOVIETS AND PERU SUPPORTED THE AMENDMENTS OF INDONESIA.

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4. DRAWING UPON EARLIER STATEMENTS, GREECE AND ECUADOR RENEWED PROPOSALS ON "ARCHIPELAGOES WHICH FORM AN INTEGRAL PART OF A COASTAL STATE." THEY WERE SUPPORTED BY: COLOMBIA, MAURITIUS, INDIA, SPAIN, PERU, PRC, HONDURAS, URUGUAY, BRAZIL, HAITI, PORTUGAL, AND CAPE VERDE. BUT OPPOSED BY: TURKEY, BULGARIA, PAKISTAN, ALGERIA, ROMANIA, TUNISIA, UKRAINE, CZECHOSLOVAKIA, AND POLAND.

5. ECUADOR RENEWED ITS CALL FOR A "SAFEGUARD CLAUSE" AS FOLLOWS: "NATIONAL LEGISLATION ENACTED PRIOR TO THE ADOPTION OF THE PRESENT CONVENTION, WITH RESPECT TO ZONES EXTENDING BEYOND 12 NAUTICAL MILES MAY CONTINUE TO BE APPLIED TO THE EXTENT THAT IT DOES NOT AFFECT THE RIGHTS AND OBLIGATIONS OF ALL STATES IN ACCORDANCE WITH THE PRESENT CONVENTION." CLAIMING THAT THIS CLAUSE WOULD PROMOTE THE UNIVERSAL ACCEPTANCE OF A LOS CONVENTION AND PRECLUDE THE NEED FOR RESERVATIONS, ENDORSEMENT CAME FROM: PERU, EL SALVADOR, MADAGASCAR, SIERRA LEONE, COLOMBIA, PANAMA, LIBYA, ALBANIA, URUGUAY, BRAZIL, CAPE VERDE, HONDURAS, CONGO, SOMALIA, PHILIPPINES AND SPAIN.

IT WAS STRONGLY OPPOSED BY THE GDR, ALGERIA, BULGARIA, BHUTAN, CZECHOSLOVAKIA, HUNGARY, IRAQ, POLAND, AFGHANISTAN, UAE, YUGOSLAVIA, BYELORUSSIA, ETHIOPIA, MAURITIUS, ROMANIA, FRANCE, UK, THE US (CLINGAN), AND THE USSR.

6. AT A SHORT NG-6 MEETING - WHERE THE PROCESS OF NEGOTIATIONS IS PRACTICALLY SUSPENDED - SRI LANKA SUPPORTED THE NATURAL PROLONGATION CRITERIA AND CATEGORICALLY REJECTED BOTH THE IRISH FORMULA AND THE SOVIET PROPOSAL. NIGERIA SAID IT COULD ACCEPT EITHER THE 200-MILE CRITERION OR "LIVE WITH" ART. 76 OF THE ICNT. COLOMBIA QUESTIONED CONTINUED DISCUSSION OF THE ISSUE IN THE NEGOTIATING GROUP AND CONFIDENTIAL

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PA-01 PM-05 SP-02 SS-15 ICA-11 OIC-02 /191 W  
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PROPOSED THAT IT BE TAKEN DIRECTLY TO PLENARY FOR RESOLUTION. THE USSR ASKED THAT THE INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION (IOC) UNDERTAKE AN IN-DEPTH STUDY TO CORRECT THE INACCURACIES AND SHORTCOMINGS OF THE SECRETARIAT STUDY OF VARIOUS LIMITS OF THE MARGIN. THE USSR ALSO SUGGESTED THAT THE IOC MIGHT

USEFULLY PARTICIPATE IN DISCUSSIONS OF THE MARGIN DEFINITION. THE IOC REP (DRUET), SPEAKING IN RUSSIAN, SAID HE WOULD PROVIDE COUNSEL, AS APPROPRIATE, AND HAD FULL AUTHORITY TO ANSWER ANY QUESTIONS POSED.

7. THE NG-7 MEETING HEARD A REPETITION OF THE DEBATE BETWEEN PROPONENTS OF EQUIDISTANCE AND THOSE FAVORING EQUITABLE PRINCIPLES.

8. THE INFORMAL WORKING GROUP ON MARINE POLLUTION REACHED NO DECISION ON A PORTUGUESE REQUEST TO REMOVE INCINERATION FROM THE DEFINITION OF DUMPING IN ARTICLE 1. ARTICLE (1)(5)(C) IS TO BE DELETED THUS MAKING CLEAR THAT THE DISPOSAL OF WASTE FROM OFFSHORE PROCESSING OF SEABED MINERAL RESOURCES IS INTENDED  
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TO BE REGULATED BY THE LOS CONVENTION. A US PROPOSAL TO ARTICLE 195 (ADVOCATING THAT ALL STATES TAKE MEASURES TO PRESERVE RARE AND FRAGILE ECOSYSTEMS AS WELL AS HABITATS OF THREATENED OR ENDANGERED SPECIES AND OTHER MARINE LIFE) WAS ADOPTED. THE FRENCH SUGGESTION TO STRIKE FROM PORT STATE JURISDICTION, VIOLATIONS ON THE HIGH SEAS UNLESS ACTION IS REQUESTED BY THE FLAG STATE WAS SECONDED BY SOME MARITIME STATES. THE US, CANADA, NEW ZEALAND AND AUSTRALIA EXPRESSED STRONG OPPOSITION.

9. A US AMENDMENT REQUIRING STATES TO TAKE INTO ACCOUNT THE SAFETY OF ALL NAVIGATION IN REGULATING POLLUTION IN THE ATMOSPHERE (ARTICLE 213) WAS REFERRED TO THE SMALLER NEGOTIATING GROUP. THIS FORUM ACCEPTED A NEW ARTICLE 212 (6) WHICH EMPHASIZED INTERNATIONAL STANDARDS REFERRED TO THEREIN AND INCLUDED INTER ALIA NOTIFICATION OF DISCHARGES WHICH THREATEN COASTLINES. NO CONCLUSION WAS REACHED ON THE FRENCH ARTICLE 222 AMENDMENT (TO ALLOW INTERVENTION FOLLOWING A MARINE CASUALTY WITHOUT THE NECESSITY OF PROVING A GRAVE AND IMMINENT DANGER).

10. THE SMALL WORKING GROUP OF NG-5 COMPLETED THE REDRAFT OF ARTICLE 296(4) RELATING TO FISHERY DISPUTES IN THE ECONOMIC ZONE. IT AGREED TO TWO ADDITIONAL SUB-PARAGRAPHS. A NEW SUBPARAGRAPH (III) PROVIDES COMPULSORY CONCILIATION FOR DISPUTES RELATING TO THE ALLOCATION OF SURPLUS. IT WOULD READ AS FOLLOWS:

- (III) A COASTAL STATE HAS ARBITRARILY REFUSED
- TO ALLOCATE TO ANY STATE, UNDER THE
- PROVISIONS OF ARTICLES 62, 69 AND 70
- AND UNDER THE TERMS AND CONDITIONS

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- ESTABLISHED BY THE COASTAL STATE
- CONSISTENT WITH THE PRESENT CONVENTION,
- THE WHOLE OR PART OF THE SURPLUS IT HAS
- DECLARED TO EXIST.

ANOTHER SUBPARAGRAPH WOULD PROVIDE FOR THE SETTLEMENT  
OF DISPUTES ARISING UNDER AGREEMENTS CONCLUDED WITH  
THE LL/GDS PURSUANT TO ARTICLES 69 AND 70. THE  
AGREED TEXT READS:

- (E) IN NEGOTIATING AGREEMENTS PURSUANT TO
- ARTICLES 69 AND 70 THE PARTIES, UNLESS
- THEY OTHERWISE AGREE, SHALL INCLUDE A
- CLAUSE ON MEASURES WHICH THE PARTIES
- SHALL TAKE IN ORDER TO MINIMIZE THE
- POSSIBILITY OF A DISAGREEMENT CONCERNING
- THE INTERPRETATION OR APPLICATION OF THE
- AGREEMENT, AND ON HOW THE PARTIES SHOULD
- PROCEED IF A DISAGREEMENT NEVERTHELESS
- ARISES.

THE SOVIET UNION ASKED THAT THE CHAIRMAN REPORT THAT  
SOME DELEGATIONS DID NOT AGREE TO THE PAPER.  
RICHARDSON

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## Message Attributes

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